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No. 73-699

Supreme Court, U. S.
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In the Supreme Court of the United States

OCTOBER TERM, 1973

ROBERT E. LEE, PETITIONER

v.

SECURITIES AND EXCHANGE COMMISSION

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

MEMORANDUM FOR THE SECURITIES AND EXCHANGE COMMISSION IN OPPOSITION

ROBERT H. BORK,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

LAWRENCE E. NERHEIM,
General Counsel,
Securities and Exchange Commission,
Washington, D.C. 20549

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Petitioner Lee seeks review of an order permanently enjoining him from further violation of the antifraud provisions of the Securities Act of 1933, 15 U.S.C. 77a, *et seq.*, and the Secutities Exchange Act of 1934, 15 U.S.C. 78a, *et seq.*

Petitioner was enjoined by the United States District Court for the Eastern District of Kentucky because of his activities arising out of his relationship with American Associated Systems, Inc. ("American Associated"), and its subsidiaries. While not a named officer or director, Lee was chief corporate counsel of American Associated and a member of its executive committee. He was also a principal of the management company which had as its only client American Associated and its subsidiaries. The courts below found that Lee, in these capacities, had been instrumental in the frauds

of the companies, through his participation in directors' meetings and preparation of false and misleading corporate documents (Pet. App. 1a-3a, 10a-17a).

Through his protestations that he was merely an employee of American Associated without any managerial authority, petitioner in effect urges that this Court should review, *de novo,* the findings of fact of the district court, affirmed by the court of appeals. In its *per curiam* opinion, the latter court stated, "A careful review of the record reveals substantial support for the District Court's findings * * *" (Pet. App. 2a-3a), and appended the district court's findings to its opinion (Pet. App. 3a-9a). Further review is inappropriate, and the petition should be denied. *Graver Mfg. Co.* v. *Linde Co.,* 336 U.S. 271, 275.

Respectfully submitted.

ROBERT H. BORK,
Solicitor General.

LAWRENCE E. NERHEIM,
General Counsel,
Securities and Exchange Commission.

NOVEMBER 1973.

DOJ-1973-11